

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06CV69-3-MU**

MARION EDWARD PEARSON,)
)
 Petitioner,)
)
 v.)
)
 RANDALL LEE,)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on Petitioner's Motion for Relief from Judgment Obtained by Fraud FRCP 60(b)(3) filed August 31, 2009 (Doc. No. 80). For the reasons stated herein, Petitioner's motion will be denied.

1. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner filed a Petitioner for Writ of Habeas Corpus in this Court on February 28, 2006. In a twenty-three page Order dated September 5, 2008 the undersigned denied and dismissed Petitioner's Petition (Doc. No. 63.) On September 19, 2008. Petitioner filed a motion for reconsideration (doc. No. 65) which was denied by Order dated September 23, 2009 (Doc. No. 66.) On October 22, 2008, Petitioner filed a Notice of Appeal in the Fourth Circuit Court of Appeals (Doc. No. 68.) On April 24, 2009 the Fourth Circuit issued an unpublished opinion dismissing Petitioner's appeal (Doc. No. 73.) On June 1, 2009 the Fourth Circuit denied Petitioner's Petition for rehearing en banc. (Doc. No. 76.)

Petitioner asks this Court to reconsider its Order dated September 4, 2008. Petitioner has received all the review to which he is entitled as the Fourth Circuit has already decided Petitioner's

appeal and denied Petitioner's Petition for rehearing en banc. Therefore, Petitioner's motion is denied. United States v. Bell, 5 F.3d 64, 66 (4th Cir. 1993) (the law of the case doctrine "forecloses relitigation of issues expressly or impliedly decided by the appellate court.")

SO ORDERED.

Signed: September 3, 2009

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

